

## CHAPTER 338.

An act to promote and protect the oyster interests of the state.

*The General Assembly of North Carolina do enact :*

SECTION 1. It shall be unlawful for any person to use or cause to be used any drag, scrape, dredge, patent tongs, or other instrument, except hand tongs, for the purpose of catching or taking oysters from the public oyster grounds of the state. Any person or persons violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five hundred dollars or imprisoned not less than one year in the state prison, and shall furthermore forfeit the boat used for such unlawful purpose, together with all its appliances and appurtenances thereto belonging. Said boat, its appliances and appurtenances to be advertised for thirty (30) days at the court-house door by the sheriff of the county wherein the arrest and seizure was made and sold by him at public auction, and the proceeds of said sale shall be applied to the oyster fund of the state. Whenever any such instrument as is forbidden by this section to be used in the taking of oysters is found on any boat engaged in the catching or transportation of oysters, it shall be *prima facie* evidence of the use of such instrument, and the burden shall be upon those in charge of such boat to prove that said instrument has not been used.

Unlawful to use any instrument, except hand tongs, to take oysters from state grounds.

Misdemeanor.

Forfeiture.

*Prima facie* evidence.

SEC. 2. No person shall use or cause to be used in any of the waters of the state any instrument or boat for the purpose of taking or catching oysters from the public grounds of the state unless he shall have resided continuously in the state at least twelve (12) months next preceding the day upon which he shall begin to take oysters; and no non-resident of the state shall make any sale or transfer of any oystering apparatus to be used for the benefit of such non-resident, or to be used by such non-resident as the servant or employee of a citizen, and any such sale or transfer not made *bona fide* and for full consideration shall be void. Upon affidavit founded upon information and belief that any non resident is operating any such apparatus as aforesaid in the waters of the state under such pretended sale or transfer, or as the pretended employee of any citizen, it shall be the duty of the justice of the peace before whom such affidavit is made to issue a warrant against such non-resident and citizen, and upon sufficient evidence shall require them to enter into a justified bond in the sum of one thousand dollars each for their appearance at the next term of the superior court of the county in which such arrest is made, and upon conviction said defendants shall be fined not less than five hundred dollars, or imprisoned in the county jail, to be hired out by the commissioners of said county, for

Only residents to use instrument or boat to take oysters from state grounds.

Non-resident not to sell oystering apparatus for his use, &c.

Proceeding against non-resident operating oystering apparatus, &c.

Penalty.